

30 calendar days of the date of the administrative law judge's decision. Such notice shall be accompanied by proof of service on the administrative law judge and the opposing party.

(2) Upon receipt of such a notice, the Director, Office of Hearings and Appeals, shall appoint an *ad hoc* appeals board to hear and decide an appeal. To the extent they are not inconsistent herewith, the provision of the Department of Hearings and Appeals Procedures in 43 CFR part 4, subparts A, B, and G shall apply to appeal proceedings under this subpart. The decision of the board on the appeal shall be in writing and shall become effective as the final administrative determination of the Secretary in the proceeding on the date it is rendered, unless otherwise specified therein.

(g) *Report service.* Copies of decisions in civil penalty proceedings instituted under the Act may be obtained by letter of request addressed to the Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203-1923. Fees for this service shall be as established by the Director of that Office.

## **PART 8—JOINT POLICIES OF THE DEPARTMENTS OF THE INTERIOR AND OF THE ARMY RELATIVE TO RESERVOIR PROJECT LANDS**

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AUTHORITY: Sec. 7, 32 Stat. 389, sec. 14, 53 Stat. 1197; 43 U.S.C. 421, 389.

SOURCE: 31 FR 9108, July 2, 1966, unless otherwise noted.

### **§ 8.0 Acquisition of lands for reservoir projects.**

In so far as permitted by law, it is the policy of the Departments of the Interior and of the Army to acquire, as a part of reservoir project construc-

tion, adequate interest in lands necessary for the realization of optimum values for all purposes including additional land areas to assure full realization of optimum present and future outdoor recreational and fish and wildlife potentials of each reservoir.

### **§ 8.1 Lands for reservoir construction and operation.**

The fee title will be acquired to the following:

(a) Lands necessary for permanent structures.

(b) Lands below the maximum flowage line of the reservoir including lands below a selected freeboard where necessary to safeguard against the effects of saturation, wave action, and bank erosion and the permit induced surcharge operation.

(c) Lands needed to provide for public access to the maximum flowage line as described in paragraph (b) of this section, or for operation and maintenance of the project.

### **§ 8.2 Additional lands for correlative purposes.**

The fee title will be acquired for the following:

(a) Such lands as are needed to meet present and future requirements for fish and wildlife as determined pursuant to the Fish and Wildlife Coordination Act.

(b) Such lands as are needed to meet present and future public requirements for outdoor recreation, as may be authorized by Congress.

### **§ 8.3 Easements.**

Easements in lieu of fee title may be taken only for lands that meet all of the following conditions:

(a) Lands lying above the storage pool.

(b) Lands in remote portions of the project area.

(c) Lands determined to be of no substantial value for protection or enhancement of fish and wildlife resources, or for public outdoor recreation.

(d) It is to the financial advantage of the Government to take easements in lieu of fee title.

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### § 8.4 Blocking out.

Blocking out will be accomplished in accordance with sound real estate practices, for example, on minor sectional subdivision lines; and normally land will not be acquired to avoid severance damage if the owner will waive such damage.

### § 8.5 Mineral rights.

Mineral, oil and gas rights will not be acquired except where the development thereof would interfere with project purposes, but mineral rights not acquired will be subordinated to the Government's right to regulate their development in a manner that will not interfere with the primary purposes of the project, including public access.

### § 8.6 Buildings.

Buildings for human occupancy as well as other structures which would interfere with the operation of the project for any project purpose will be prohibited on reservoir project lands.

## PART 9—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF THE INTERIOR PROGRAMS AND ACTIVITIES

Sec.

- 9.1 What is the purpose of these regulations?
- 9.2 What definitions apply to these regulations?
- 9.3 What programs and activities of the Department are subject to these regulations?
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- 9.5 What is the Secretary's obligation with respect to Federal interagency coordination?
- 9.6 What procedures apply to the selection of programs and activities under these regulations?
- 9.7 How does the Secretary communicate with state and local officials concerning the Department's programs and activities?
- 9.8 How does the Secretary provide states an opportunity to comment on proposed federal financial assistance and direct federal development?
- 9.9 How does the Secretary receive and respond to comments?
- 9.10 How does the Secretary make efforts to accommodate intergovernmental concerns?

9.11 What are the Secretary's obligations in interstate situations?

9.12 How may a state simplify, consolidate, or substitute federally required state plans?

9.13 May the Secretary waive any provision of these regulations?

AUTHORITY: E.O. 12372, July 14, 1982 (47 FR 30959), as amended April 8, 1983 (48 FR 15887); and sec. 401 of the Intergovernmental Cooperation Act of 1968 as amended (31 U.S.C. 6506).

SOURCE: 48 FR 29232, June 24, 1983, unless otherwise noted.

### § 9.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, "Intergovernmental Review of Federal Programs," issued July 14, 1982 and amended on April 8, 1983. These regulations also implement applicable provisions of section 401 of the Intergovernmental Cooperation Act of 1968.

(b) These regulations are intended to foster an intergovernmental partnership and a strengthened Federalism by relying on state processes and on state, areawide, regional and local coordination for review of proposed federal financial assistance and direct federal development.

(c) These regulations are intended to aid the internal management of the Department, and are not intended to create any right or benefit enforceable at law by a party against the Department or its officers.

### § 9.2 What definitions apply to these regulations?

*Department* means the U.S. Department of the Interior.

*Order* means Executive Order 12372, issued July 14, 1982, and amended April 8, 1983 and titled "Intergovernmental Review of Federal Programs."

*Secretary* means the Secretary of the U.S. Department of the Interior or an official or employee of the Department acting for the Secretary under a delegation of authority.

*State* means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.